REMARKS

This paper is in response to the Office Action dated October 9, 2007. Claims 1, 4, 6, 7, 10 and 12 – 13 are amended hereby and claims 2 – 3 are canceled without prejudice to the subject matter involved. Claims 1 and 4 – 13 are in the application upon entry of this amendment. Entry of this amendment, reconsideration and reexamination of the above-identified application are respectfully requested.

Summarizing briefly the amendments to the claims, claims 3 and 10 have been incorporated into claim 1 and the size of the capsules and the polymer wall concentration have been inserted based for which is provided, for example, on page 7, lines 22-28 of the specification. Claim 10 is amended based on, for example, page 5, line 9 of the specification. In addition, certain claim dependencies have been revised and formula "(I)" in amended claim 13 has been revised to read "(II)".

With respect to the February 22, 2005 information disclosure, Applicant submits an English machine translation of the JP 6256116 reference in a separate paper. An English abstract of the JP 6256116 reference was previously submitted. Applicant notes that the GB 1513614 reference of record is already in the English language. The Examiner is respectfully requested to consider these references in connection with the above-identified application.

Applicant respectfully traverses the § 112, second paragraph, rejection of claims 1 – 13, but submits that this rejection is now moot in view of the foregoing amendment to claim 1 deleting the phrase "little or no surfactant properties". Reconsideration and withdrawal are respectfully requested.

Applicant respectfully traverses the rejection of claims 1 – 10 and 12 under 35 USC §103 as being unpatentable over US patent 5,650,102 (Hagedorn) and the further rejections of claims 11 and 13 as being unpatentable over Hagedorn in view of US patent 4,886,656 (Obayashi) and US patent 5,292,102 (Roberts), respectively.

More specifically, Hagedorn relates to a process for the preparation of microcapsule dispersions by an interface polyaddition process in which an oil-in-water emulsion is prepared from an oily phase, which comprises the substance to be encapsulated and a lipophilic substance

capable of polyaddition, and on aqueous phase, and the reaction partner required for the polyaddition is then added to the aqueous phase. Hagedorn et al. teaches that capsules with smaller particle sizes are obtained, with a saving in emulsifying energy, if an oil-soluble emulsifier is added to the oily phase before the emulsification. The gist of Hagedorn is apparently due to the emulsifier being in the oil phase prior to emulsification, rather than being in the aqueous phase as was done previously.

The Examiner will appreciate that in order for the emulsifiers of Hagedorn to achieve their effect, they must locate at the oil/water interface. In contrast, the bioperformance-enhancing adjuvant of the present invention is not located at the oil/water interface; instead it resides within the capsules.

Accordingly, there is nothing in Hagedorn and its teaching of a particular emulsification process which would motivate one of ordinary skill to consider placing a bioperformance-enhancing adjuvant inside a microcapsule. Nor would there be a reasonable expectation of success in making such a modification to the process of Hagedorn et al.

Furthermore, there is nothing within either of the secondary references Obayashi or Roberts that would lead one of ordinary skill to modify Hagedorn and place a bioperformance-enhancing adjuvant inside a microcapsule.

In view of the foregoing amendments and arguments, a favorable reconsideration and a withdrawal of the § 103 rejection are respectfully requested. Applicant submits that the present claims are allowable over the cited art and respectfully request a Notice of Allowance.

Respectfully submitted,

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